

REMARKS

In the Office Action of September 4, 2003, claim 91 was objected to because of a lack of antecedent basis; claims 104, 105, and 114 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite; and claims 91, 92 and 97-114 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Buckley et al. in view of Hisano et al. Claims 93-96 were objected to as being dependent upon a rejected base claim, but the Examiner indicated that the claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant wishes to thank the Examiner for the indication of allowable subject matter in claims 93-96. By this Reply, Applicant has amended independent claims 91, 104-106, and 114, and added new claims 115-123. No new matter has been added by this Reply. Claims 91-123 are pending in this application.

With respect to the objection of claim 91 expressed in the outstanding Office Action, Applicant submits that claim 91 properly points out and distinctly claims Applicant's invention. In particular, and contrary to the objection in the outstanding Office Action, the phrase "the incident light beam" in claim 91, line 10, has proper antecedent basis in the phrase "an incident light beam" found in claim 91, line 9. Accordingly, Applicant requests the objection to claim 91 be withdrawn.

Regarding the rejection of claim 104 under 35 U.S.C. § 112, second paragraph, Applicant submits that the claim is a proper dependent claim. 37 C.F.R. §1.75 defines a dependent claim as a claim that refers back to and further limits another claim. Claim 104 refers back to and further limits another claim, claim 91, and is thus a proper

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dependent claim. Accordingly, claim 104 was properly examined as a dependent claim and is not indefinite under 35 U.S.C. § 112, second paragraph, with respect to whether it is a dependent claim.

Claims 105 and 114 are likewise proper dependent claims because they refer back to and further limit another claim. Additionally, these claims are not indefinite because they are method or process claims depending from an apparatus claim. As noted in section 608.01(n)(III), "[t]he fact that [] independent and dependent claims are in different statutory classes does not, in itself, render the latter improper." In view of the above, Applicant requests that the outstanding rejections under 35 U.S.C. § 112, second paragraph, be withdrawn.

Regarding the rejection of independent claim 91 under 35 U.S.C. § 103(a), as unpatentable over Buckley et al. in view of Hisano et al., Applicant traverses the rejection because Buckley et al. and Hisano et al., either alone or together, fail to disclose or suggest each of the aspects of independent claim 91. For example, Buckley et al. and Hisano et al. fail to disclose or suggest, among other things, a surface position detection device comprising a light beam deflector having an even number of reflection surfaces to allow an incident light beam to exit at an angle that is not parallel to an entry angle of the incident light beam.

Buckley et al. does not disclose a light beam deflector, and thus cannot disclose or suggest the claimed aspects of a light beam deflector. Hisano et al. discloses a light reflector in the form of a mirror, but the mirror has its reflective surfaces on an outer periphery. See col. 2, line 66 of Hisano et al. Accordingly, the light beam in Hisano et al. does not enter and exit the mirror as required by independent claim 91. In view of

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the above, Applicant respectfully requests the rejection of independent claim 91 be withdrawn.

Regarding the rejection of independent claim 106 under 35 U.S.C. § 103(a), as unpatentable over Buckley et al. in view of Hisano et al., Applicant traverses the rejection because Buckley et al. and Hisano et al., either alone or together, fail to disclose or suggest each of the aspects of independent claim 106. For example, Buckley et al. and Hisano et al. fail to disclose or suggest, among other things, deflecting at least either one of an optical path of the projected light beam or an optical path of the received light beam with an even number of reflection surfaces to allow an incident light beam to exit at an angle that is not parallel to an entry angle of the incident light beam, as required by independent claim 106.

Buckley et al. does not disclose deflecting a light beam with reflecting surfaces. Hisano et al. discloses deflecting a laser beam with a mirror having reflective surfaces on an outer periphery. Hisano et al. does not disclose a laser beam entering or exiting the mirror. Accordingly, Hisano et al. does not disclose or suggest deflecting a light beam with an even number of reflection surfaces to allow an incident light beam to exit at an angle that is not parallel to an entry angle of the incident light beam, as required by independent claim 106. In view of the above, Applicant respectfully requests the rejection of independent claim 106 be withdrawn.

Regarding the rejections of dependent claims 92, 97-105, and 107-114, Applicant traverses these rejections for the reasons above and because the rejections fail to properly provide a teaching for each of the additional aspects of the dependent claims. A proper obviousness determination requires that the prior art (or references when

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combined) teach or suggest all of the claim limitations. See MPEP § 2143. The conclusory statements to the use of different optical material and different optical paths, and to the existence of a holding member and exposure apparatus, set forth in the rejections, without a teaching of such aspects, is clearly improper.

In view of the above, Applicant respectfully requests that the rejection of dependent claims 92, 97-105, and 107-114 under 35 U.S.C. § 103(a) be withdrawn.

In addition, Applicant requests that the objection to claims 93-96, which were objected to as being dependent upon these rejected base claims, also be withdrawn.

Applicants also submit that the subject matter of new dependent claims 115-123 is not disclosed or suggested by the prior art of record. Therefore, claims 115-123 are in condition for allowance for at least the same reasons as independent claims 91 and 106 from which they depend and by virtue of their additional recitations of novelty.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization of the Office Action.

In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no. 06-0916.

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Respectfully submitted,

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